

Agenda

Item #2



STATE OF MAINE
COMMISSION ON GOVERNMENTAL ETHICS
AND ELECTION PRACTICES
135 STATE HOUSE STATION
AUGUSTA, MAINE
04333-0135

April 9, 2010

By E-Mail and Regular Mail

Peter Martin
8 Murray Lane
Winslow, Maine 04901

Dear Mr. Martin:

The Maine Commission on Governmental Ethics and Election Practices received the attached complaint against you as the spokesperson for Black Bear Entertainment, the proponent of the citizen initiative on the November 2, 2010 ballot that would establish a casino in Oxford County. In the complaint, Dennis Bailey of CasinosNO! asks the Commission to consider whether you were required to register and file monthly reports as a lobbyist because of your communications with Legislators to influence L.D. 1808 and amendments to the bill. Some of the discussed amendments related to a proposed "competing measure" for the election ballot. The complaint also asks the Commission to consider whether the campaign finance reports filed by Black Bear Entertainment political action committee (PAC) were incomplete, because they did not include expenditures or obligations to you.

You stopped by my office on April 7th and responded that you were not required to register as a lobbyist because you had not lobbied for more than eight hours in a calendar month. You also said that you had formed a consulting firm, Atlantic Strategies LLC, which had received payments from the PAC. Lobbyist Registrar Cindy Sullivan assisted you in registering as a lobbyist on April 7th.

Requirement to Register as a Lobbyist

As defined in the lobbyist disclosure law, a person engages in "lobbying" if he or she directly communicates with a covered official for the purpose of influencing legislative action, when the person receives compensation or reimbursement of expenses for those activities. (3 M.R.S.A. § 312-A(9)) Also included in lobbying is the preparation of testimony, analyses, or proposals that are submitted to covered officials for the purpose of influencing legislative action. (*Id.*) The Commission has adopted guidance concerning what activities do and do not count as lobbying. (See attached flier.)

Once a person engages in more than eight hours of lobbying within a calendar month on behalf of their regular employer, he or she qualifies as a "lobbyist" or a "lobbyist associate." (3 M.R.S.A. §§ 312-A(10) and (10-A)) Each lobbyist or lobbyist associate is

Peter Martin
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April 9, 2010

required to register with the Commission, and to file monthly reports and an annual report. (3 M.R.S.A. §§ 313 and 317)

Requirements for PACs to Report Expenditures

PACs are required to report expenditures under 21-A. M.R.S.A. § 1060(4). The definition of "expenditure" includes promised or agreed-upon payments, which should be disclosed on our online reporting forms as unpaid debts. (21-A. M.R.S.A. § 1052(4)(A)(2))

Commission's Consideration of this Matter

(3) SW

The members of the Commission are required by statute to consider the complaint at a public meeting. The Commission will consider the request at the Commission's meeting on April 29, 2010 at 9:00 a.m. in the conference room of the Commission's office at 45 Memorial Circle in Augusta. I suggest you attend the meeting to answer any questions from the Commissioners.

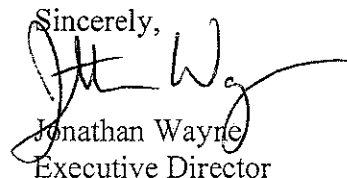
Your Opportunity to Respond

The Commission staff requests you provide a written response no later than Friday, April 16, 2010. In your response, please address

- whether Black Bear Entertainment has made any payments to Atlantic Strategies
- you have been compensated by Black Bear Entertainment, Atlantic Strategies or any other person for lobbying
- whether you lobbied for more than eight hours in a calendar month, including by preparing testimony, analyses, or proposals that were submitted to Legislators or other officials.

If, in responding to the complaint, Black Bear Entertainment realizes that its campaign finance reports were incomplete, please amend the reports. Please call me at 287-4179 with any questions.

Sincerely,



Jonathan Wayne
Executive Director

cc: Daniel W. Walker, Esq. (by e-mail and regular mail)
Dennis Bailey (by e-mail and regular mail)

Casinos NO!

Don't Gamble Away Maine's Future

April 7, 2010

Jonathan Wayne
Executive Director
Maine Ethics Commission
45 Memorial Circle
Augusta, ME 04330

RECEIVED

APR - 8 2010

MAINE ETHICS COMMISSION

Dear Jonathan,

After talking over our discussion with the Casinos/NO! board, we have decided to move forward and submit a formal complaint regarding the activities of Peter Martin, the spokesperson for Black Bear Entertainment.

It has come to our attention that Mr. Martin spent a considerable amount of time during the recent session of the Legislature working on a compromise competing measure for the Oxford County casino referendum, as well as work for the original casino proposal itself. He spoke with many legislators and worked closely with others involved in the issue. Yet, to our knowledge, Mr. Martin is not a registered lobbyist. Statehouse observers have told us that his time spent in the Legislature meeting with lawmakers must have surely exceeded eight hours per month, the amount that would require registration as a lobbyist.

We realize that in order to be considered as a lobbyist, Mr. Martin must be compensated by a client for his efforts, and we can find no record of compensation. However, this seems to raise other questions.

Mr. Martin is identified on Black Bear Entertainment's website as the "spokesperson" for the group behind the Oxford County casino proposal (<http://www.blackbearentertainment.com/>). He spends a considerable amount of his time traveling the state, speaking to civic groups and the news media as a representative of Black Bear Entertainment and its proposal, and appears to be its campaign manager. If he is not being directly compensated for his time or reimbursed for his expenses, does his work for the group constitute an in-kind contribution to the campaign that should be reported? If he has an agreement with Black Bear to share in the casino's ownership or profits (if it passes) in lieu of payment for his current efforts, is this an anticipated expense by the campaign that must be reported (as we understand the law, campaign expenses are to be reported at the time they are incurred, not when they are actually paid)? It seems unlikely to us that Mr. Martin is simply a volunteer with no compensation agreement with Black Bear Entertainment. (It should be noted that in prior years, Mr. Martin has registered as a paid lobbyist for "wagering/gaming issues.").

P. O. Box 4581
Portland, Maine 04112
www.casinosno.org

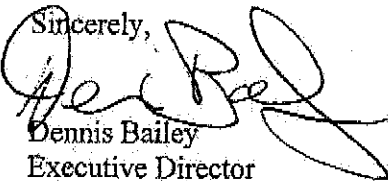
This isn't the first time Mr. Martin's legislative lobbying activities have been questioned. A 2007 article in the Portland Phoenix details Mr. Martin's activities on behalf of several gambling interests, and notes that he was not then a registered lobbyist.

(<http://thephoenix.com/Portland/Life/41439-Jackpot/?page=3#TOPCONTENT>)

We feel strongly that complete transparency and disclosure to the public should be required for all political campaigns, but particularly by individuals who hope to operate a gambling casino in Maine, in order to maintain integrity in our campaign finance laws. We urge you to examine this issue thoroughly.

Thank you.

Sincerely,



Dennis Bailey
Executive Director
CasinosNO!

STATE OF MAINE
COMMISSION ON GOVERNMENTAL ETHICS AND ELECTION PRACTICES
135 State House Station, Augusta, Maine 04333-0135
Tel: (207) 287-4179 Fax: (207) 287-6775
Website: www.maine.gov/ethics

LOBBYING FAQ

The Ethics Commission staff frequently receives questions regarding what kinds of activities constitute "lobbying." Lobbying is defined by Maine statute (3 M.R.S.A. § 312-A) and generally refers to communicating directly with an official in the Legislature for the purpose of influencing legislative action, including time spent preparing and submitting oral or written proposals, testimony or analysis concerning any legislative action. It also includes communicating with the Governor for the purpose of influencing the approval or veto of a legislative action.

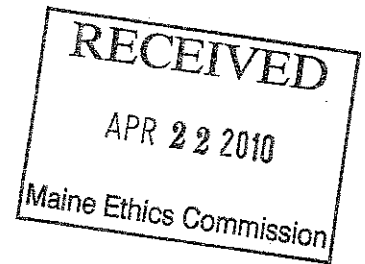
A person has to register as a lobbyist if he or she spends more than 8 hours in any calendar month engaging in lobbying and if that person is compensated by an employer for the time spent lobbying. Activities on the lobbyist's personal time do not constitute lobbying.

This memo is intended to offer consistent guidance to lobbyists and employers in determining when the 8-hour threshold has been met and what activities must be included in the lobbyist's monthly reports. The guidance is not binding -- only statutes and rules are legally enforceable -- but it reflects the Commission's interpretation of the statutes governing lobbying in Maine and may be relied upon by the Commission in considering specific complaints or questions that may arise in the future. In the past, the Commission held a broader interpretation of the law, but has decided that a narrow approach is more appropriate.

All lobbyists and employers are encouraged to read the statute carefully (3 M.R.S.A. §§ 311 - 326), in particular the definitions in §312-A, and to adhere to its provisions. If a lobbyist or employer has questions regarding disclosure procedures, they are urged to contact Commission staff at 287-4179 prior to filing a report.

Does lobbying include...	
...sitting and waiting for an opportunity to communicate with Legislators?	No. Only direct communication is considered lobbying.
...monitoring legislation?	No. Attending a hearing or work session to monitor the progress of legislation is not lobbying, as long as the lobbyist does not communicate with a Legislator.
...travel time to the State House or other event for the purpose of communicating with Legislators?	No.
...speaking to a Legislator about general issues of interest to the employer?	As long as the communication with the Legislator is not intended to influence the drafting or consideration of a specific legislative action, the communication is not considered lobbying.
...educational seminars for Legislators?	No, provided the seminar is to educate Legislators about the employer's business or general issues of interest and not specific legislation as outlined above.
...communicating with the employer regarding a specific LD?	If the communication is part of preparing a proposal, testimony, or analysis concerning a legislative action, the communication is lobbying. If it is for another purpose (e.g., reporting to the client on the progress of legislation), the communication is not lobbying.
...research for a specific LD?	Yes, if the research will be used for a proposal, testimony, or analysis concerning a legislative action. Otherwise, the research is not lobbying.
...communicating with staff of the Legislature?	Yes. If the communication deals with specific matters as outlined above.

From the desk of
J. Peter Martin



April 13, 2010

Mr. Jonathon Wayne
Executive Director
Maine Ethics Commission
45 Memorial Circle
Augusta, Maine 04330
April 13, 2010

Dear Mr. Wayne:

I am in receipt of your correspondence asking to respond to the complaint filed by Casino No in regards to my lobbying practices. The following is my response.

Atlantic Strategies is a Maine LLC that was formed back in 2007 as a public policy company with a specific emphasis in the gaming strategy. The company was retained by Black Bear Enterprises (BBE) in the fall of 2009 to help guide the Oxford Referendum from it's inception to the November vote of 2010. Our duties include, but are not limited to Spokesperson, campaign strategy, legislative guidance, consulting and a myriad of other duties that would help insure the success of a long campaign. Compensation is in the form of a contract, to be paid at specific intervals, is not hourly and without any specific compensation directed at any one responsibility. We are not being paid by any other groups or individuals at this time. We have been paid by BBE.

My experience in Augusta within the hallways of the capital goes back to the mid 1980's when I was president of the Maine Restaurant Association and lobbied on behalf of the organization in a limited role on specific issues addressing liquor liability laws and non smoking. During the 1990's, I opened the first OTB in Maine. I lobbied as an owner for many years. During that time, I became intimately aware of the lobbying requirements of the state. Upon selling my business in 2005, I was retained to guide a tax issue and registered as a lobbyist at that time.

On several occasions in the latter part of March, I had discussed with our attorney, Dan Walker, the 8-hour limit but decided I was under the threshold and had not made a decision on registering. We discussed the issue again the day Dan Walker received the complaint notice from the Ethics Commission. I decided to register to remove any doubt, although I believed at the time I was under the requirement.

The Oxford referendum was certified by the Maine Secretary of State on or about February 17, 2010 and given the # LD 1808. No time was logged on the issue in January or February of this

year. On March 8, LD1808 had a public hearing and two subsequent work sessions. I testified at the public hearing for about 15 minutes, and answered no questions. My testimony was prepared in part by my partner, who does not lobby at all in Augusta. Two work sessions were scheduled and as you know the public is not allowed to speak at work sessions, but I was asked questions by the committee at the first work session and had about 15 minutes of direct communication with the committee. The second work session was a repeat of the first where I had another 15 minutes of direct communication. It should be noted the work session were lengthy on both occasions, but my direct participation was very limited.

It was decided LD1808 would possibly have a competing measure accompany the legislation to the ballot in November and would take its normal course through the Legislature for approval. I spent many hours at the Legislature during this time period monitoring the legislative progress. I attended two House Democratic caucus meetings, but did not speak at either one.

In summary, I had direct discussions about the bill with House Minority Leader Tardy for no more than 20 minutes, Senate Minority Leader Raye for no more than 30 minutes, Senate Majority Leader Bartlett for no more than 15 minutes, Senate President Mitchell for no more than 15 minutes, Senator Plowman for approximately 60 minutes, Representative Trinward for approximately 20 minutes, Senator Sullivan for approximately 20 minutes, Representative Fitts for approximately 60 minutes, Representative Russell for approximately 30 minutes, Representative Valentino for approximately 30 minutes, Senator Hastings for approximately 30 minutes, Senator Bryant 10 minutes, Representative Jim Martin for approximately 30 minutes, Representative Sawin Millet for no more than 15 minutes, Rep Soctomah for 20 minutes, Legislative Analyst Danielle Fox for 90 minutes and probably another 60 minutes with various legislators in conversations all 5 minutes or less. I estimate my full direct lobbying time with testimony presentation at about 10.00 hours. I had forgotten about Danielle Fox and being required to submit her time.

Most of my direct lobbying took place after the first workshop on March 17, when the competing measure issues came into play, through March 26. The bill was finally voted on March 31. The competing measure issues never were debated as the majority ONTP was endorsed, essentially killing the bill. Some additional time was logged from April 1 through April 5 when the bill was finally killed.

Registering as a lobbyist on April 7 and using the 15-day rule working backwards would have suggested that I could have crossed the 8 hour threshold on March 18; however I know that not to be true and have safely estimated March 26 could have been the probable day. Using the 15-day rule again I was at least 7 days ahead of that deadline. I fully believe I have stayed within the guideline of the Maine Ethics Commission and have violated no rules or statutes.

It should be noted I saw Mr. Bailey only once at the legislature in all of 2010, and I recall that was either in January or February.

Finally, any casino issue garners considerable scrutiny as evidenced by the complaint filed. This endeavor will cost millions by the time it reaches the November vote and it would be ludicrous for me, who also serves as their spokesperson, to avoid paying a \$200 registration fee

considering what was at risk, and it makes me wonder about the real intent of the complaint by Mr. Bailey and his organization, given his past actions and that of CasinoNo!

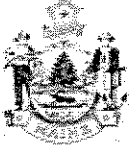
I believe I have answered all of your questions to the best of my ability.

Sincerely,

A handwritten signature in black ink, appearing to read "Peter Martin", with a long, sweeping flourish extending to the right.

Peter Martin

cc. Mr. Daniel Walker... via e-mail

**LOBBYIST REGISTRATION 2010**

LOBBYIST INFORMATION	
Martin, J. Peter 8 Murray Ln. Winslow, ME 04901	Telephone: (207)861-1003 Fax: (207)877-9158 nitram54@zwi.net
CLIENT INFORMATION	
Black Bear Ent. Principal Contact: Steve Barber P.O. Box 10078 Portland, ME 04101	Telephone: (207)861-1003 Fax: stephenabarber1@gmail.com promotemaine.com
LOBBYIST ASSOCIATES	
N/A	Telephone: Fax:
COMMENCEMENT OF LOBBYING ACTIVITIES	
Date when lobbying commenced or is expected to commence: 01/01/2010	Date when lobbying first exceeded 8 hours in a calendar month: 03/26/2010
COMPENSATION	
The amount of compensation or the basis upon which the lobbyist will charge for those services.	
CONTRACT	
CLIENT'S BUSINESS DESCRIPTION, LEGISLATIVE INTERESTS, AND LEGISLATIVE COMMITTEES	
<u>General Nature of Business:</u> Wagering/gaming <u>Description of Business/Mission:</u> Casino and entertainment Oxford Maine <u>Legislative Interests:</u> wagering and gaming <u>Legislative Committees:</u> Legal and Veterans Affairs	

April 12, 2010

Ms. Cindy Sullivan
Maine Commission on Governmental Ethics
And Election Practices
135 State House Station
Augusta, Maine 04333

**Re: Supplement to April Quarterly PAC Report for Black Bear Entertainment
LLC PAC**

Dear Cindy,

As we discussed, please consider this letter a supplement to the April Quarterly PAC Report of Black Bear Entertainment ("BBE") LLC PAC, in order to explain a reporting situation that the Commission's e-filing system was not designed to accommodate and in the interests of full disclosure.

Atlantic Strategies is a consulting firm operated by Peter Martin and Tony Palminteri that is consulting for BBE LLC on a number of different fronts, including matters for which they must report to the Ethics Commission, as part of the PAC report. As part of its payment scheme, BBE LLC gave Atlantic Strategies 5% equity in BBE LLC in February of 2010.

The legal definition of "expenditure" is "a purchase, payment, distribution, loan, advance, or deposit or gift of money or anything of value" 21-A M.R.S.A. §1052(4)(A)(1). Arguably, the transfer of a share of BBE LLC is the gift of something of value (ownership interest), which must be reported.

Although PACs must report every expenditure, pursuant to 21-A M.R.S.A. §1060(4) and (7), the Commission's e-filing system, which BBE PAC is required to use, was designed only for the reporting of monetary expenditures. All expenditures are reported on Schedule B and B-1, and they reduce the cash balance of the PAC. However, the Commission's current online and paper reporting forms do not include an effective means for a PAC to disclose the transfer of something of value other than money.

Nevertheless, in the interests of full disclosure, the BBE LLC PAC will report the transfer of 5% ownership interest in BBE LLC to Atlantic Strategies. Please maintain this letter in the

PRETI FLAHERTY

April 12, 2010

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paper file for the BBE LLC PAC; therefore, it will be a public record in case anyone requests it.
Thank you very much.

Sincerely,

A handwritten signature in black ink, appearing to be 'D. Walker', with a stylized flourish at the end.

Daniel W. Walker
Attorney

DWW:ryp

April 15, 2010

Ms. Cindy Sullivan
Maine Commission on Governmental Ethics
and Election Practices
135 State House Station
Augusta, Maine 04333

**Re: Amendment to January Quarterly PAC Report for Black Bear
Entertainment LLC PAC**

Dear Cindy,

As we discussed, please consider this letter as an explanation of the amendment to the January Quarterly PAC Report of Black Bear Entertainment ("BBE") LLC PAC that was made today. Recently, in a review of the PAC records, BBE LLC uncovered a payment in an amount of \$50,000 that had been made in October to Atlantic Strategies for consulting services that was mistakenly not reported in the January Quarterly Report.

As background, the BBE LLC maintains two bank accounts – a money market account which holds the contributed funds and a checking account from which expenditures are made. The normal course of business when making an expenditure is a two-step process: first, the transfer by the bank of the funds necessary for the expenditure from the money market account to the checking account, and second, the cutting of the expenditure check from the checking account. In reviewing the expenditures of the PAC in preparation of filing a PAC report with the Commission, the statements of the BBE LLC checking account are fully vetted with the bank and the PAC officials.

In this case, the bank cut the \$50,000 check to Atlantic Strategies on October 22, 2009 directly from the money market account and not from the checking account. In our review with the bank of all expenditures of the PAC for the reporting period, the bank only provided us with the expenditures made directly from the checking account, which did not include the expenditure at issue. As a result, the January Quarterly Report failed to report this \$50,000 expenditure.

I have since reviewed all the bank statements of both the money market account and the checking account to ensure that no other payments were made directly from the money market account and learned that this \$50,000 expenditure was an anomaly. At no other time has the bank made a payment directly from the money market account.

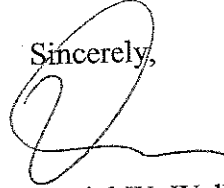
PRETI FLAHERTY

April 16, 2010

Page 2

We apologize for any inconvenience. Thank you very much for your attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to be 'D. Walker', written over the word 'Sincerely,'.

Daniel W. Walker
Attorney

DWW:ryp

CHAPTER 15

LOBBYIST DISCLOSURE PROCEDURES

3 § 311. Declaration of purpose

The Constitution of Maine guarantees the right of the people to petition their government for the redress of grievances and to freely express their opinions on legislation and issues. The Legislature reaffirms its obligation to hear the requests and opinions of all of the people, and to preserve and maintain the integrity and accessibility of the legislative process.

The Legislature recognizes that groups of citizens may choose one among them to present their views to Legislators, and, because of the amount and complexity of proposed legislation, may employ persons knowledgeable in the legislative process to present their views. Such activities are proper methods of expressing the opinion of a group of citizens.

The Legislature also recognizes that such activities must be carried out openly so that other citizens are aware of the opinions and requests made in this manner. Legislative decisions can fully reflect the will of all the people only if the opinions expressed by any citizen are known to all and debated by all, and if the representatives of groups of citizens are identified and their expenditures and activities are regularly disclosed.

Therefore, the Legislature declares that, in order to insure the full participation of all the people of the State in the legislative process, full disclosure of the identity, expenditures and activities of any persons who engage in professional lobbying is required. Such disclosure will insure the openness and integrity of the legislative process and encourage the expression of the will of all the people of the State.

3 § 312. Definitions (REPEALED)

3 § 312-A. Definitions

As used in this chapter, unless the context otherwise indicates, the following words have the following meanings.

1. Campaign fund raising activity. "Campaign fund raising activity" means any event or solicitation by letter or any other means that is held for the purpose of receiving contributions for a political party, political committee, political action committee, candidate for political office in any primary or election, any elected official or a referendum committee.

1-A. Campaign contribution. "Campaign contribution" is a contribution, as defined in Title 21-A, section 1012, subsection 2.

2. Committee. "Committee" means any committee, subcommittee, joint or select committee of the Legislature or any special committee or commission, by whatever name, established by the Legislature to make recommendations for legislative action or to develop legislation.

2-A. Commission. "Commission" means the Commission on Governmental Ethics and Election Practices as defined in Title 1, Chapter 25.

3. Communicate. "Communicate" means the act of expressing, imparting or conveying information or impressions from one person to another, by either oral or written means.

4. Compensation. "Compensation" means anything of value that is received or to be received in return for, or in connection with, services rendered or to be rendered.

4-A. Covered official. "Covered official" means an official in the executive branch, an official in the legislative branch, a constitutional officer, the Governor and the Governor's cabinet and staff.

4-B. Domestic partner. "Domestic partner" means the partner of an individual who:

- A. Is a mentally competent adult, as is the individual;
- B. Has been legally domiciled with the individual for at least 12 months;
- C. Is not legally married to or legally separated from another individual;
- D. Is the sole partner of the individual and expects to remain so; and
- E. Is jointly responsible with the individual for each other's common welfare as evidenced by joint living arrangements, joint financial arrangements or joint ownership of real or personal property.

5. Employer. "Employer" means a person who agrees to reimburse for expenditures or to compensate a person who in return agrees to provide services. Employer includes any political action committee as defined in this section which communicates through or uses the services of a lobbyist to make campaign contributions or to influence in any way the political process.

6. Employment. "Employment" means an agreement to provide services in exchange for compensation or reimbursement of expenditures.

7. Expenditure. "Expenditure" means anything of value or any contract, promise or agreement to transfer anything of value, whether or not legally enforceable.

- A. (REPEALED).
- B. (REPEALED).
- C. (REPEALED).

7-A. Immediate family. "Immediate family" means a person's spouse or domestic partner and dependent children.


7-B. Indirect lobbying. "Indirect lobbying" means to communicate with members of the general public to solicit them to communicate directly with any covered official for the purpose of influencing legislative action, other than legislation that is before the Legislature as a result of a direct initiative in accordance with the Constitution of Maine, Article IV, Part Third, Section 18, when that solicitation is made by:


- A. A broadcast, cable or satellite transmission;
- B. A communication delivered by print media; or

C. A letter or other written communication delivered by mail or by comparable delivery service. E-mail is not considered a letter for the purposes of this paragraph.

8. Legislative action. "Legislative action" means the drafting, introduction, consideration, modification, enactment or defeat of any bill, resolution, amendment, report, nomination or other matter by the Legislature, by either the House of Representatives or the Senate, any committee or an official in the Legislative Branch acting in his official capacity, or action of the Governor in approving or vetoing any legislative document presented to the Governor for his approval.

8-A. Legislative designee. "Legislative designee" means any employee of a state department or agency who is directed by the head of the department or agency to lobby or monitor legislation on behalf of the department or agency. "Legislative designee" includes an employee who is reasonably expected to lobby or monitor legislation on behalf of the department or agency for more than 20 hours during the session. For the purposes of this subsection, "monitoring legislation" means attending legislative hearings and sessions regarding a legislative action.

 **9. Lobbying.** "Lobbying" means to communicate directly with any official in the legislative branch or any official in the executive branch or with a constitutional officer for the purpose of influencing any legislative action or with the Governor or the Governor's cabinet and staff for the purpose of influencing the approval or veto of a legislative action when reimbursement for expenditures or compensation is made for those activities. "Lobbying" includes the time spent to prepare and submit to the Governor, an official in the legislative branch, an official in the executive branch, a constitutional officer, or a legislative committee oral and written proposals for, or testimony or analyses concerning, a legislative action. "Lobbying" does not include time spent by any person providing information to or participating in a subcommittee, stakeholder group, task force or other work group regarding a legislative action by the appointment or at the request of the Governor, a Legislator or legislative committee, a constitutional officer, a state agency commissioner or the chair of a state board or commission.

 **10. Lobbyist.** "Lobbyist" means any person who is specifically employed by another person for the purpose of and who engages in lobbying in excess of 8 hours in any calendar month, or any individual who, as a regular employee of another person, expends an amount of time in excess of 8 hours in any calendar month in lobbying. "Lobbyist" does not include a lobbyist associate. "Lobbyist" does not include an individual who receives no compensation for lobbying other than reimbursement for lobbying-related travel within the State and reimbursement for other out-of-pocket expenditures made by the individual for printing, postage and food and lodging connected with lobbying activities paid for by the individual. For the purposes of this subsection, "reimbursement for other out-of-pocket expenditures" does not include reimbursement for the individual's time spent lobbying that would have been otherwise compensated by an employer or in the course of the individual's employment.

10-A. Lobbyist associate. "Lobbyist associate" means an individual who:

- A. Is a partner, associate or employee of a lobbyist or is a coemployee of a regular employee of another person if that regular employee is registered as a lobbyist;
- B. Lobbies on behalf of the employer named on the lobbyist registration; and

C. Expends more than 8 hours in any calendar month lobbying on behalf of an employer of the lobbyist.

10-B. Media outlet. "Media outlet" means a radio or television station, a cable television system, newspapers, magazines and other published written materials.

10-C. Official in the executive branch. "Official in the executive branch" means an individual in a major policy-influencing position in a department or agency listed in section 959 or in Title 5, Chapter 71 and the Governor's cabinet and staff. As used in this chapter, "major policy-influencing position" means those positions listed in Title 5, chapter 71 and officers or employees of departments and agencies listed in section 959 and in Title 5, Chapter 71 who have policy development as a major function of their positions.

11. Official in the Legislative Branch. "Official in the Legislative Branch" means a member, member-elect, candidate for or officer of the Legislature or an employee of the Legislature.

11-A. Original source. "Original source" means any person who contributes or pays \$1,000 or more in any lobbying year directly or indirectly to any employer of a lobbyist for purposes of lobbying or indirect lobbying, except that contributions of membership dues to nonprofit corporations formed under Title 13-B, under any equivalent state law or by legislative enactment are not considered contributions by an original source.

12. Person. "Person" means an individual, corporation, proprietorship, joint stock company, business trust, syndicate, association, professional association, labor union, firm, partnership, club or other organization, whether profit or nonprofit, or any municipality or quasi-municipality or group of persons acting in concert, but does not include this State or any other agency of this State.

13. Political Action Committee. "Political Action Committee" includes:

A. Any separate or segregated fund established by any corporation, membership organization, cooperative or labor organization whose purpose is to influence the outcome of an election, including a candidate or question; and

B. Any person, as defined in subsection 12 which serves as a funding and transfer mechanism and by which moneys are expended to advance, promote, defeat, influence in any way, or initiate a candidate, campaign, political party, referendum or initiated petition in this State.

14. Reimbursement. "Reimbursement" means anything of value received or to be received as repayment for expenditures.

14-A. Solicit. "Solicit" means to entreat, implore, urge or ask.

15. Year. "Year" means a twelve-month period starting December 1st and ending the following November 30th.

16. Anything of value. "Anything of value" means, but is not limited to:

A. Negotiable items:

(1) Money;

(2) A bank bill or note;

- (3) A stock, bond, note or other investment interest in an entity;
- (4) A promissory note, bill of exchange, order, draft, warrant, check or bond given for the payment of money;
- (5) An honorarium or compensation for services;
- (6) The granting of a discount or rebate:
 - (a) Not extended to the public generally; or
 - (b) By a media outlet not extended equally to all candidates for the same office; and
- (7) The sale or trade of something for reasonable compensation that is not available ordinarily to a member of the public;

B. Obligations:

- (1) A contract, agreement, promise or other obligation for an advance, conveyance, forgiveness of indebtedness, deposit, distribution, loan, payment, pledge or transfer of money;
- (2) A receipt given for the payment of money or other property;
- (3) A right in action;
- (4) A promise or offer of employment; and
- (5) An interest in tangible goods or chattel;

C. Property. The retail or fair market value, whichever is greater, of:

- (1) A work of art, an antique or a collectible;
- (2) An automobile or other means of personal transportation;
- (3) Real property or an interest in real property, including title to realty, a fee simple or partial interest, present or future interest contingent or vested in realty, a leasehold interest or other beneficial interest in realty; and
- (4) Other tangible goods; and

D. Other goods or services. The retail or fair market value, whichever is greater, of:

- (1) The purchase of tickets for an event such as a reception, rally or fund-raising event;
- (2) A meal or lodging; and
- (3) Any service not extended free of charge to other members of the public.

17. State employee or state agency employee. "State employee or state agency employee" means employees of the executive branch, the judicial branch, the Department of the Attorney General, the Department of Secretary of State, the Department of the Treasurer and any employee who directly or indirectly represents an entity listed in Title 5, Chapter 379.

3 § 313. Registration of lobbyists and employers

Every employer of a lobbyist and every lobbyist and lobbyist associate who lobbies on behalf of that employer shall register jointly at the office of the Commission no later than 15 business days after commencement of lobbying and pay a registration fee of \$200 for the registration of each lobbyist and \$100 for the registration of each lobbyist associate or such other amounts as the Commission determines approximate the cost to the Commission of administering and enforcing the provisions of this chapter.

3 § 313-A. Registration of state employees or state agency employees

Within 15 business days of the convening of a regular legislative session, a department or agency shall register with the commission as described in section 316-A those officers or employees who will serve as the department's or agency's legislative designees for the session. The department or agency shall file an updated registration form later in the session containing any changes of its designees within 15 business days of the change.

1. Legislative designee. (REPEALED)

2. Lobbying requirements. (REPEALED)

An employee who is required to be registered under this section is exempt from all other requirements under the law regarding lobbyists.

3 § 314. Duration of registration

Each joint registration filed pursuant to this chapter automatically expires on the last day of the year during which the person was registered to lobby, unless as otherwise provided.

A joint registration expires if the employer notifies the Commission in writing that the lobbyist is no longer engaged by the employer to lobby. If termination occurs prior to November 30th, the notification must be given within 30 days of the termination.

If termination is effected prior to November 30th, no further reports are required, except that the lobbyist and employer are required to file an annual report pursuant to section 317, subsection 2. The filing of an annual report, signed by the lobbyist and employer, before November 30th is considered a notification of termination.

Any new registration must be filed pursuant to section 313 before any lobbying is commenced after the lobbyist's employment has been terminated.

3 § 315. Registration docket (REPEALED)

3 § 315-A. Registration docket; disclosure website

1. Registration. The Commission shall prepare and maintain a docket for the registration of lobbyist and employers of lobbyists required to register pursuant to this chapter. The registration docket and all supplementary files of information and materials filed pursuant to this chapter must be open to public inspection during the office hours of the Commission.

The docket must contain the name of the lobbyist and the person employing the lobbyist, the business address of each, the nature of the business of the person employing the lobbyist and a statement as to the compensation that the lobbyist will receive for lobbying services, or if an exact amount is not ascertainable, the basis upon which the lobbyist will charge for services. This docket must be updated on a monthly basis and arranged and indexed as follows:

- A. An alphabetical listing of those persons who have employed a lobbyist, which listing must indicate the names of all lobbyists employed by the employer; and
- B. An alphabetical listing of those persons employed as lobbyists, which listing must indicate the names of all persons by whom each lobbyist is employed.

The docket must be reestablished annually by the Commission and the docket for any year must be maintained and be available for public inspection in the office of the Commission for four (4) years from the expiration of the docket.

2. Disclosure website. The commission shall develop and maintain a publicly accessible website that displays:

- A. A list of all persons who have employed a lobbyist during the current year;
- B. A list of all lobbyists and lobbyist associates registered for the year;
- C. A profile of each registered lobbyist and lobbyist associate, including contact information, the name of the lobbyist's employer or employers, and if provided by the lobbyist or lobbyist associate, a photograph of the lobbyist or lobbyist associate;
- D. A profile of each person employing a lobbyist, including contact information for the employer, and a list of lobbyists and lobbyist associates engaged by the employer;
- E. For each employer, a list of all legislative actions that have been the subject of lobbying for the year, including hyperlinks to the summary page of the Legislature's publicly accessible website for each legislative document listed; and
- F. A list of officials in the executive branch as defined in section 312-A, subsection 10-C.

3 § 316. Registration forms

The Commission shall prepare and make available registration forms for the registration of lobbyists and employers required to register pursuant to section 313. These forms must include the following information:

- 1. Names.** The name of the lobbyist, a list of the lobbyist associates, the name of the person authorized by the lobbyist to sign the registration and reports for the lobbyist and the name of the person employing the lobbyist;
- 2. Business addresses.** The business address and other contact information for the lobbyist, the lobbyist associates and the person employing the lobbyist;
- 3. Date.** The date upon which lobbying commenced or was expected to commence;
- 4. Nature of business.** A description of the nature of the employer's business activity or mission or a description of the industry, trade or profession that the employer represents;

4-A. Legislative interests. The general areas of legislation that the employer is attempting to influence;

4-B. Legislative committees. The joint standing committees of the Legislature that the lobbyist expects to lobby during the year;

4-C. Website of employer. The address for the employer's publicly accessible website; and

5. Compensation. The amount of compensation that the lobbyist will receive for that lobbyist's services or, if an exact amount is unascertainable, the basis upon which the lobbyist will charge for those services.

The lobbyist must certify that the information on that form is true, correct and complete and that the employer has approved the information in the registration.

3 § 316-A. Registration forms for state employees or state agency employees

The Commission shall prepare and make available registration forms for the registration of state employees or state agency employees required to register pursuant to section 313-A. These forms must include the following information:

1. Names. The name, business address and contact information of the employee and the department or agency the employee is representing and the address for the publicly accessible website of the department or agency the employee is representing;


2. Position description. A position description;

3. Description of agency. A description of the department or agency the employee is representing, its jurisdiction and its activities; and

4. Legislative interests. The general subject areas of legislation that the department or agency is attempting to influence.

These forms must be signed by the employee and the signature serves as a certificate that the information on that form is true, correct and complete.

3 § 317. Reports



Reports required by this section must be on forms prescribed or approved by the commission. The forms must provide for a sworn statement that the persons signing the report acknowledge the truth and completeness of all the information contained therein.

1. Monthly session reports. During the period in which the Legislature is in session, every registered lobbyist shall file with the commission, no later than 11:59 p.m. on the 15th calendar day of each month, a report concerning the lobbyist's activities for the previous month regarding each employer.

Every lobbyist shall report that lobbyist's lobbying activities for each month that the Legislature is in session, even if no lobbying has been performed or compensation or reimbursement for expenses received for the month. In the case of a lobbyist representing multiple employers, if no lobbying or services in support of lobbying were performed, one

report listing each employer on whose behalf no lobbying was conducted may be submitted. The monthly report must contain the following information:

- A. The month to which the report pertains;
- B. The name and address of the lobbyist and employer;
- C. The names of the individuals who lobbied during the month;
- D. The specific dollar amount of compensation received for lobbying activities, as defined in section 312-A, subsection 9, during the month. The amount of compensation received for lobbying officials in the legislative branch, officials in the executive branch and constitutional officers must be reported separately.

In the case of a regular employee, the specific dollar amount must be computed by multiplying the number of hours devoted to the preparation of documents and research for the primary purpose of influencing legislative action and to lobbying by the employee's regular rate of pay based on a 40-hour week;

- E. The specific dollar amount of expenditures made or incurred by the lobbyist during the month that is the subject of the report for purposes of lobbying as defined in section 312-A, subject 9 for which the lobbyist has been or expects to be reimbursed. The amount of expenditures for lobbying officials in the legislative branch, officials in the executive branch and constitutional officers must be reported separately;

E-1. When expenditures for the purposes of indirect lobbying exceed \$15,000 during the month that is the subject of the report, the specific dollar amount of expenditures for indirect lobbying made or incurred during the month by a lobbyist, lobbyist associate or employer, with separate totals for expenditure categories as determined by the commission, the legislative actions that are the subject of the indirect lobbying and a general description of the intended recipients;

- F. The total amount of expenditures by the lobbyist or the employer directly to or on behalf of one or more covered officials, including members of the official's immediate family;

G. For any expenditure of money or anything of value made by the lobbyist or employer on behalf of a covered official or a member of the official's immediate family with a total retail value of \$25 or more, the name of the official or family member, the person making the expenditure and the date, amount and purpose of the expenditure;

G-1. The date, and a description of an event, a list of all officials in the legislative branch or executive branch or members of an official's immediate family in attendance and the total amount of expenditures for the event, if the total amount of the expenditures for officials and family members is \$250 or more;

- H. A list of each legislative action by Legislative Document number, specific issue, nomination or other matter in connection with which the lobbyist is engaged in lobbying;

I. A list specifically identifying each legislative action for which the lobbyist was compensated or expects to be compensated, or expended in excess of \$1,000 for lobbying activities related to those actions and a statement of the amounts compensated or expended for each; and

J. A list of all of the employer's original sources and a statement of the dollar amounts contributed or paid by the original sources to the employer. If the original source is a corporation formed under Titles 13 or 13-A, nonprofit corporation formed under Title 13-B or limited partnership under Title 31, the corporation, nonprofit organization or limited partnership, not the individual members or contributors, must be listed as the original source.

2. Annual report. Thirty days following the end of the year in which any person lobbied pursuant to section 313, the lobbyist and the lobbyist's employer shall file with the Commission a joint report that must contain the information required in subsection 1, for all lobbying activities for the year.

The reports required by subsection 1 must be signed by the person designated by the lobbyist in section 316, subsection 1. The reports required by this subsection must be signed by both the designated person and the employer.

If the date any report required by this section is due falls on a day other than a regular business day, the report is due on the first regular business day next following the due date.

In addition to the amounts identified in subsection 1 as compensation received or expenditure made for the primary purpose of lobbying, this annual report must include the total amount of compensation received by the lobbyist or the lobbying firm, or expended by the employer, except compensation received or expended for purposes not related to lobbying.

2-A. Electronic filing. Beginning January 1, 2006, a lobbyist shall file monthly session reports under subsection 1 and annual reports under subsection 2 through an electronic filing system developed by the Commission. The Commission may make an exception to this electronic filing requirement if a lobbyist submits a written request that states that the lobbyist lacks access to the technology or the technological ability to file reports electronically. The request for an exception must be submitted at least 10 days prior to the deadline for the first report that the lobbyist is required to file for the lobbying year. The Commission shall grant all reasonable requests for exceptions.

3. Facsimile copies. The Commission may, by rules adopted pursuant to the Maine Administrative Procedure Act, Title 5, chapter 375, establish procedures and fees by which facsimile copies of duly executed reports required by this section may be received and filed with the Commission.

4. Monthly non-session reports. When the Legislature is not in regular session, every registered lobbyist must either file:

A. With the lobbyist's last monthly report for that regular session a statement that the lobbyist will not engage in lobbying activities when the Legislature is not in session. The lobbyist is required to file a monthly report for lobbying activity conducted during a special session; or

B. If the lobbyist is engaged in lobbying in any of those months, a monthly report in the manner prescribed in subsection 1 even if compensation or reimbursement for expenses has not been received for the month.

(5) The payment by a party's state, district, county or municipal committee of the costs of preparation, display or mailing or other distribution of a party candidate listing;

(6) Documents, in printed or electronic form, including party platforms, single copies of issue papers, information pertaining to the requirements of this Title, lists of registered voters and voter identification information, created, obtained or maintained by a political party for the general purpose of party building and provided to a candidate who is a member of that party;

(7) Compensation paid by a state party committee to its employees for the following purposes:

(a) Providing no more than a total of 40 hours of assistance from its employees to a candidate in any election;

(b) Recruiting and overseeing volunteers for campaign activities involving 3 or more candidates; or

(c) Coordinating campaign events involving 3 or more candidates;

(8) Campaign training sessions provided to 3 or more candidates;

(8-A) Costs paid for by a party committee in connection with a campaign event at which 3 or more candidates are present;

(8-B) Wood or other materials used for political signs that are found or contributed if not originally obtained by the candidate or contributor for campaign purposes;

(8-C) The use or distribution of any communication, as described in section 1014, obtained by the candidate for a previous election and fully paid for during that election;

(9) The use of offices, telephones, computers and similar equipment when that use does not result in additional cost to the provider; or

(10) Activity or communication designed to encourage individuals to register to vote or to vote if that activity or communication does not mention a clearly identified candidate.

3. Expenditure. The term "expenditure:"

A. Includes:

(1) A purchase, payment, distribution, loan, advance, deposit or gift of money or anything of value made for the purpose of influencing the nomination or election of any person to political office, except that a loan of money to a candidate by a financial institution in this State made in accordance with applicable banking laws and regulations and in the ordinary course of business is not included;

(2) A contract, promise or agreement, expressed or implied, whether or not legally enforceable, to make any expenditure;

(3) The transfer of funds by a candidate or a political committee to another candidate or political committee; and

(4) A payment or promise of payment to a person contracted with for the purpose of supporting or opposing any candidate, campaign, political committee, political action committee, political party, referendum or initiated petition or circulating an initiated petition; and

B. Does not include:

(1) Any news story, commentary or editorial distributed through the facilities of any broadcasting station, newspaper, magazine or other periodical publication, unless the facilities are owned or controlled by any political party, political committee, candidate, or candidate's immediate family;

(1-A) Any communication distributed through a public access television station if the communication complies with the laws and rules governing the station and all candidates in the race have an equal opportunity to promote their candidacies through the station;

(2) Activity or communication designed to encourage individuals to register to vote or to vote if that activity or communication does not mention a clearly identified candidate;

(3) Any communication by any membership organization or corporation to its members or stockholders, if that membership organization or corporation is not organized primarily for the purpose of influencing the nomination or election of any person to state or county office;

(4) The use of real or personal property and the cost of invitations, food and beverages, voluntarily provided by an individual to a candidate in rendering voluntary personal services for candidate-related activities, if the cumulative value of these activities does not exceed \$100 with respect to any election;

(5) Any unreimbursed travel expenses incurred and paid for by an individual who volunteers personal services to a candidate, if the cumulative amount of these expenses does not exceed \$100 with respect to any election;

(5-A) Any unreimbursed campaign-related travel expenses incurred and paid for by the candidate or the candidate's spouse or domestic partner;

(6) Any communication by any person that is not made for the purpose of influencing the nomination for election, or election, of any person to state or county office;

(7) The payment by a party's state, district, county or municipal committee of the costs of preparation, display or mailing or other distribution of a party candidate listing;

(8) The use or distribution of any communication, as described in section 1014, obtained by the candidate for a previous election and fully paid for during that election campaign;

C. Reports of spending to influence special elections, referenda, initiatives, bond issues or constitutional amendments must be filed:

(1) On the 11th day before the date on which the election is held and must be complete as of the 14th day before that date; and

(2) On the 42nd day after the date on which the election is held and must be complete as of the 35th day after that date.

D. A committee that files an election report under paragraph B or C is not required to file a quarterly report when the deadline for that quarterly report falls within ten (10) days of the filing deadline established in paragraph B or C.

E. A committee shall report any expenditure of \$500 or more made after the 14th day before the election and more than 24 hours before 5:00 p.m. on the day of the election within 24 hours of that expenditure.

3. Report of expenditures made after the 11th day and more than 48 hours before any election. (REPEALED)

4. Special election reports. (REPEALED)

5. Electronic filing. Committees shall file each report required by this section through an electronic filing system developed by the commission. The commission may make an exception to this electronic filing requirement if a committee submits a written request that states that the committee lacks access to the technology or the technological ability to file reports electronically. The request for an exception must be submitted within 30 days of the registration of the committee. The commission shall grant all reasonable requests for exceptions.

21A § 1060. Content of reports

The reports must contain the following information and any additional information required by the commission to monitor the activities of political action committees:

1. Identification of candidates. The names of and offices sought by all candidates whom the committee supports, intends to support or seeks to defeat;

2. Identification of committees; parties. The names of all political committees or party committees supported in any way by the committee;

3. Identification of referendum or initiated petition. The referenda or initiated petitions that the committee supports or opposes;

4. Itemized expenditures. An itemization of each expenditure made to support or oppose any candidate, campaign, political committee, political action committee and party committee or to support or oppose a referendum or initiated petition, including the date, payee and purpose of the expenditure; the name of each candidate, campaign, political committee, political action committee or party committee supported or opposed; and each referendum or initiated petition supported or opposed by the expenditure. If expenditures were made to a person described in section 1012, subsection 3, paragraph A, subparagraph (4), the report must contain the name of the person; the amount spent by that person on behalf of the